Appl. No. 10/711,042
Amdt. dated June 19, 2008
Reply to Office Action of February 19, 2008

Attorney Docket No. 014682-000008

Remarks

Applicant has reviewed the Office Action dated as mailed February 19, 2008 and the documents cited therewith. After the above amendments to the claims have been made, the present application contains claims 1-17. Claims 18-26 have been cancelled in the interest of expediting prosecution and not in view of art cited by the Examiner.

Claim Rejections under 35 U.S.C. § 102

Claims 1-36 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Application Publication 2002/0194251 by Richter et al. (hereinafter "Richter"). This rejection is respectfully traversed. Claim 1 recites:

> "tracking a sequence of utilization of the plurality of resources in responding to a request or a set of requests; and
> representing a quantity of occurrences of each segment linking resources in the sequence."

Paragraph [0109] of Richter was cited in the Office Action in rejecting claim 1. Paragraph [0109] recites:

> "[0109]   With the above-described tasks being performed by the network interface engine, the transport engine may perform TCP sequence number processing, acknowledgement and retransmission, segmentation and reassembly, and flow control tasks..."

Applicant respectfully submits that performing transmission control protocol (TCP) sequence number processing as taught by Richter is clearly not the same as tracking a sequence of utilization of the plurality of resources in responding to a request or sent of request as provided by the embodiment of the present invention as recited in claim 1.

Paragraph [0020] of Richter was also cited in the Office Action in rejecting claim 1. Paragraph [0020] of Richter recites:

> "... the disclosed systems and methods may be implemented to monitor, predict and/or control system/subsystem run-time resource utilization values in relation to threshold resource utilization values to avoid over utilization of system/subsystem resources that may result in degradation of service quality such as may be experienced in traditional network-based QoS environments, and/or to enforce

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> operational/allocation policies based on threshold levels. By tracking current resource utilization in relation to maximum resource utilization threshold/s, multiple tenants may be allocated available system/subsystem resources according to one or more differentiated service policies in a manner that guarantees sufficient system/subsystem resource availability to satisfy such policies without degradation of service quality . . ."

Accordingly, Richter discloses tracking current resource utilization in relation to maximum resource utilization threshold(s) in order to avoid over utilization of a system. Richter does not teach, disclose or suggest tracking *a sequence* of resource utilization. Applicant respectfully submits that there is no teaching or suggestion in Richter of tracking a sequence of utilization of the plurality of resources in responding to a request or a set of requests as recited in claim 1.

In addition, Figure 19 of Richter was recited in rejecting claim 1. Figure 19 of Richter merely discloses that requests are evaluated to identify the resources required to process the given request. Applicant respectfully submits that there is no teaching or suggestion in Richter whatsoever of *representing* a quantity of occurrences of each segment linking resources in the sequence, as recited in claim 1. Accordingly, for the foregoing reasons, claim 1 is respectfully submitted to be patentable over Richter and reconsideration and withdrawal of the section 102 rejection of claim 1 is respectfully requested.

Regarding the rejection of claims 2-7 under 35 U.S.C. § 102 as being anticipated by Richter, these claims recite additional features which further patentably distinguish over Richter. For example, claim 2 recites:

> "representing each resource by a predetermined resource symbol; and
> representing each segment between a pair of resources in the sequence by a line between the resource symbols corresponding to the pair of resources, wherein each line has a selected line width corresponding to a quantity of occurrences of the segment in responding to the request or set of requests."

In rejecting claim 2, paragraph [0032] of Richter, which is the description of Figure 1A, was cited. Paragraph [0032] recites:

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"FIG. 1A is a representation of components of a content delivery system according to one embodiment of the disclosed content delivery system."

Paragraph [0032] is a description of Figure 1A in the "Brief Description of the Drawings" Section of Richter's patent application. Richter does not teach that his invention presents the content delivery system in Figure 1A. This block diagram is purely for purposes of illustrating how the invention of Richter is interconnected. However, in no way does the actual invention of Richter disclose representing resources by a predetermined resource symbol or representing each segment between a pair of resources in the sequence by a line between the resource symbols corresponding to the pair of resources, as recited in claim 2. Accordingly, claim 2 is respectfully submitted to be patentable over Richter and reconsideration and withdrawal of the section 102 rejection of claim 2 is respectfully requested.

With regard to claim 3, claim 3 recites "representing a time duration since each resource was last utilized." In rejecting this claim, paragraph [0223] was cited. Paragraph [0223] recites "evaluation may involve determining whether adequate resources are available, or will be available within a specific time . . ." However, Applicant submits that Richter does not disclose representing a time duration since each resource was last utilized. Indeed, there is no time duration *represented* and there is no discussion of a time duration "since each resource was last utilized." Accordingly, claim 3 is respectfully submitted to be patentable over Richter and reconsideration and withdrawal of the section 102 rejection of claim 3 is respectfully requested.

Turning to claim 4, claim 4 recites:

"representing each resource by a predetermined resource symbol; and presenting each resource symbol at a predetermined level or degree of translucency corresponding to a time duration since the resource was last utilized."

In rejecting this claim, paragraph [0223] was again cited. However, no where in this paragraph, or in any other paragraph of Richter, does Richter disclose presenting a resource symbol at a predetermined level or degree of translucency corresponding to a time duration since the resource was last utilized. In fact, translucency was not even mentioned in Richter. Further, similar to the argument presented above with regard to claim 2, Richter does not teach that the resources are represented by symbols. Richter only employs drawings in the patent to illustrate what his

invention is and how it works and the invention itself does not teach representing resources by predetermined resource symbols. Accordingly, claim 4 is respectfully submitted to be patentable over Richter and reconsideration and withdrawal of the section 102 rejection of claim 4 is respectfully requested.

Additionally, claims 2-7 depend either directly or indirectly from independent claim 1. Because of this dependency, claims 2-7 include all of the features of independent claim 1. Therefore, claims 2-7 are also submitted to be patentably distinguishable over Richter, and reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

With respect to the rejection of independent claim 8 under 35 U.S.C. § 102(b) as being anticipated by Richter, claim 8 recites similar features to claims 1 and 4. Accordingly, claim 8 is respectfully submitted to be patentable over Richter for the same reasons as discussed with respect to claims 1 and 4. Reconsideration and withdrawal of the section 102 rejection of claim 8 is respectfully solicited.

Regarding the rejection of claims 9-11 under 35 U.S.C. § 102 as being anticipated by Richter, these claims recite additional features which further patentably distinguish over Richter. Additionally, claims 9-11 depend either directly or indirectly from independent claim 8. Because of this dependency, claims 9-11 include all of the features of independent claim 8. Therefore, claims 9-11 are also submitted to be patentably distinguishable over Richter, and reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

With regard to the rejection of independent claim 12 under 35 U.S.C. § 102(b) as being anticipated by Richter, claim 12 recites similar features to claims 1 and 8. Accordingly, claim 12 is respectfully submitted to be patentable over Richter for the same reasons as discussed with respect to claims 1 and 8. Reconsideration and withdrawal of the section 102 rejection of claim 12 is respectfully solicited.

Regarding the rejection of claims 13-17 under 35 U.S.C. § 102 as being anticipated by Richter, these claims recite additional features which further patentably distinguish over Richter. Additionally, claims 13-17 depend either directly or indirectly from independent claim 12. Because of this dependency, claims 13-17 include all of the features of independent claim 12. Therefore, claims 13-17 are also submitted to be patentably distinguishable over Richter, and

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reconsideration and withdrawal of the Section 102 rejection of these claims is respectfully requested.

Conclusion

In this Amendment, Applicant has cancelled claims 18-36 from further consideration in this application. Applicant is <u>not</u> conceding that the subject matter encompassed by claims 18-36, prior to this Amendment is not patentable over the art cited by the Examiner. Claims 18-36 were cancelled in this Amendment solely to facilitate expeditious prosecution of the allowable subject matter. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by claims 18-36, as presented prior to this Amendment and additional claims in one or more continuing applications.

For the foregoing reasons, the Applicant respectfully submits that all of the claims in the present application are in condition for allowance. Reconsideration and withdrawal of the rejections and allowance of the claims at the earliest possible date are respectfully requested.

If the Examiner has any questions about the present Amendment or anticipates finally rejecting any claim of the present application, a telephone interview is requested.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 09-0461.
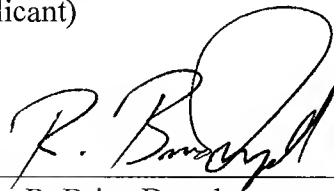
Respectfully submitted,

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